

**City of Ilwaco**  
**ORDINANCE NO #761**

AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, ESTABLISHING WATER AND SEWER UTILITY TAXES  
**WHEREAS**, Washington State Law authorizes cities to impose a tax on water and sewer utilities by legislative approval; and

**WHEREAS**, the City of Ilwaco ("City") has both a fire department and water utility; and

**WHEREAS**, providing for fire hydrants is a general governmental function, for which the City is responsible; and

**WHEREAS**, tax on public water utility may be used to pay for fire hydrants; and

**WHEREAS**, the City Council finds that the water utility tax rate needs to be changed to more accurately reflect the City's costs associated with carrying out its function and responsibility of providing for fire hydrants as a central governmental function; and

**WHEREAS**, imposing a tax on the water and sewer utilities would result in revenue benefits to the General Fund; and

**WHEREAS**, revenues are needed to provide funds for balancing the budget; and

**WHEREAS**, the City of Ilwaco has not previously imposed a water or sewer utility tax; and

**WHEREAS**, the City of Ilwaco can lift a utility tax, should future revenues be sufficient to cover expenditures;

**NOW, THEREFORE BE IT ORDAINED** by the City Council of the City of Ilwaco, Washington as follows:

**UTILITIES TAX**

**SCOPE; POWER TO LICENSE:**

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue.

**DEFINITIONS:**

In construing the provisions of this chapter, except when otherwise declared or clearly apparent from the context, the following definitions apply:

**BUSINESS:** All activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly.

**CELLULAR TELEPHONE SERVICE:** A two-way voice and data telephone/telecommunications system based in whole or substantial part on wireless radio communications and which is not subject to regulation by the Washington utilities and transportation commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service. "Cellular telephone service" is included with the definition of "telephone business" for the purpose of this chapter.

**CITY:** The city of Ilwaco.

**COMPETITIVE TELEPHONE SERVICE:** The provision by any person of telecommunications equipment or apparatus, directory advertising and lease of telephone street directories, or service related to the equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type that can be provided by persons not subject to regulation as telephone companies under Revised Code of Washington title 80, and for which a separate charge is made. Transmission of communication through cellular telephones is classified as "telephone business" rather than "competitive telephone service".

**FINANCE DEPARTMENT:** All those working under the direction of the clerk-treasurer of the city.

**GROSS INCOME:** The value proceeding or accruing by reason of the transaction of the business engaged in and without deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expenses whatsoever paid or accrued and without any deduction on account of losses, except as otherwise provided for in this chapter. "Gross income" does not include charges which are passed on to subscribers or customers by a taxpayer pursuant to tariffs required by regulatory order to compensate for the cost to the taxpayer of the tax imposed by this chapter.

**PERSON, FIRM OR CORPORATION:** Such terms used interchangeably in this chapter, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, and includes the United States, the state of Washington and any political subdivision thereof, including the city, provided a valid tax may be levied upon or collected therefore under the provisions of this chapter.

**QUARTERLY PERIOD:** A three (3) month period beginning the first day of the following months: January, April, July and October.

**TAX YEAR OR TAXABLE YEAR:** Either the calendar year or the taxpayer's fiscal year when permission is obtained from the clerk-treasurer to use a fiscal year in lieu of a calendar year.

**TAXPAYER:** Any person, firm or corporation liable to the utility tax imposed by this chapter.

**TELEPHONE BUSINESS:** The business of providing access to a local telephone network, local telephone network switching service, toll service, coin telephone services, telephonic, video, data, pagers, or similar communication, or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating exchanges. "Telephone business" does not include the providing of competitive telephone service, or providing of cable television service, or other providing of broadcast services by radio or television stations.

**VALUE PROCEEDING OR ACCRUING:** The consideration, whether money, credits, rights or other property expressed in terms of money, actually received or accrued. The terms shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

**ADMINISTRATION; RULES:**

The finance department is authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary.

**BUSINESS LICENSE REQUIRED:**

- A. License Required: No person shall engage in or carry on any business, occupation, pursuit or privilege for which a tax is imposed by this chapter without first having obtained, and being the holder of, a valid and subsisting license so to do, to be known as a "business license", hereinafter referred to as "license", issued under the provisions of this chapter as hereinafter provided, and without paying the license fee or tax imposed by this chapter.
- B. Application For License: Applications for such licenses shall be made to and issued by the finance department upon prescribed forms and giving such information as is deemed reasonably necessary to enable the finance department to administer and enforce this chapter. The fee or

tax for a certificate shall be the tax imposed by appropriate section of this chapter. Licenses issued pursuant to the provisions of this chapter shall be personal and nontransferable, and shall be valid as long as the person, firm or corporation to whom the same is issued continues in business and complies with the provisions of this chapter.

**TAX IMPOSED; AMOUNT:**

There is levied and there shall be collected from every person, firm or corporation engaged in the business activities hereinafter set forth, for the act or privilege of engaging in such activities within the city, a tax to be known as a "utility tax" in the amounts to be determined by the application of the rates herein stated against gross income, as follows:

- A. Upon every person, firm or corporation engaged in or carrying on a telephone business, or a combined telephone and telegraph business, a tax equal to six percent of the total gross operating income, including income from intra-state toll derived from the operation of such businesses within the city. "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television service;
- B. Upon every person, firm or corporation providing cable modem services, a tax equal to six percent of the total gross income derived from such services; provided, however, that in the event a city franchised cable company pays a franchise fee on income derived from cable modem services provided within the city, any such payments shall be credited against the tax imposed hereunder;
- C. Upon every person, firm or corporation engaged in or carrying on a telegraph business, a tax equal to six percent of the total gross income from such business in the city;
- D. Upon every person, firm or corporation engaged in or carrying on a business of sale, delivery or distribution of electricity and electrical energy, a tax equal to six percent of the total gross income derived from the sales of such electricity to ultimate users in the city, provided that there shall not be any such tax levied upon installation charges for electrical units;
- E. Upon every person, firm or corporation engaged in or carrying on the business of sale, delivery, distribution or furnishing of natural gas for domestic, business or industrial consumption, a tax equal to six percent of the total gross income derived from such sales to ultimate users in the city; provided, that there shall not be any such tax levied upon installation charges for gas energy units;

F. Upon every person, firm or corporation engaged in or carrying on the business of solid waste collection, hauling and disposal, a tax equal to six percent of the total gross income from such business in the city;

G. Upon the sale, delivery, distribution or furnishing of water for domestic, business or industrial consumption, a tax equal to six percent of the total gross income from such sales; provided, that there shall not be a tax levied upon installation charges for individual consumer water service lines and meters;

H. Upon the furnishing of sanitary sewerage collection and disposal services for discharge by domestic, business or industrial customers, a tax equal to six percent of the total gross income from such business; provided, that there shall not be any tax levied upon installation charges for individual customer sewer laterals and connections;

I. Upon the furnishing of storm drainage facilities for collection of storm water discharge by domestic, business or industrial customers, a tax equal to six percent of the total gross income from such business in the city;

J. Upon the delivery, distribution or furnishing of water for fire suppression services, a fee or tax equal to one hundred and fifty five dollars (\$155.00) per fire hydrant from the water sales utility.

#### **DEDUCTIONS:**

In computing the tax levied under this chapter, there shall be deducted from the gross income the following items:

A. Income derived from transactions in interstate or foreign commerce or from any business which the city is prohibited from taxing under the constitutions of the United States or the state of Washington.

B. The amount of credit losses and uncollectables actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

#### **QUARTERLY INSTALLMENTS; DUE DATE:**

The tax imposed by this chapter shall be due and payable in quarterly installments. Remittance shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period for which the tax accrued, that is, on January 30, April 30, July 30 and October 30 of each year. The remittance shall be made to the finance department and accompanied by a return on a form to be provided and prescribed by the clerk-treasurer. On the return, the taxpayer shall be required to swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so.

### **DELINQUENCY PENALTY; COLLECTION:**

A. Interest Charged: If payment of any fee or tax due under this chapter is not received by the finance department on or before the day it becomes due, there shall be added a penalty in interest as follows:

1. One to forty (40) days' delinquency, ten percent (10%), with a minimum penalty of five dollars (\$5.00);
2. Forty one (41) to seventy (70) days' delinquency, fifteen percent (15%) with a minimum penalty of ten dollars (\$10.00); and
3. Seventy one (71) or more days' delinquency, twenty percent (20%) with a minimum penalty of fifteen dollars (\$15.00).

B. Remedial Action: Any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

### **OVERPAYMENT:**

Any money paid to the city through error or otherwise not in payment of the tax imposed hereby or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon taxpayer's ceasing to do business in the city, be refunded to the taxpayer.

### **RECORDKEEPING; INSPECTION:**

It shall be the duty of every person, firm or corporation required to obtain a business license by this chapter to keep and preserve for a period of five (5) years such books and records as will accurately reflect the amount of gross income from which can be determined the amounts of any fee or tax for which there may be liability under the provisions of this chapter. The term "books and records" as used in this section, includes the taxpayer's copies of federal excise tax returns, state of Washington excise tax returns and copies of excise tax audits made by the United States or state of Washington, and furnished to such person, firm or corporation, if any. The taxpayer's books and records shall be opened for examination at all reasonable times by the clerk-treasurer or a duly authorized representative.

### **ANNEXATION; COPIES OF ORDINANCE PROVIDED:**

Whenever the boundaries of the city are extended by annexation, all persons, firms and corporations subject to this chapter will be provided copies of the annexation ordinance by the city.

**TAX CONSTITUTES LIEN:**

Any person, firm or corporation subject to this chapter who fails or refuses to apply for a business license or to make such tax return or to pay such tax when due, or who makes any false statement or representation in or in connection with any such application for a business license or such tax return, or who otherwise violates or refuses or fails to comply with the provisions of this chapter, or with any rule or regulation promulgated hereunder, is guilty of a misdemeanor.

**EFFECTIVE DATE:**

The City Council hereby declares a fiscal emergency and this ordinance shall be in full force and effect on January 1, 2010.


**PASSED** by the Ilwaco City Council.

**SIGNED** by the Mayor and attested by the Clerk in authentication of such passage this 28th day of December 2010.

Voted	Ayes	Nays	Abstain	Absent
JENSEN	✓			
CHIN	✓			
MARSHALL	✓			
GREENE	✓			
CASSINELLI	✓			

  
Doug Hubbard, Mayor

Attest:

  
Tammie Herman, ILWACO CITY CLERK